

for the Third Circuit. The Clerk of the Third Circuit then entered an administrative temporary stay of removal pending consideration of Mr. Martinez Santana's motion for stay of removal. On September 1, 2016, the Third Circuit vacated the administrative stay of removal and denied Mr. Martinez Santana's stay of removal.

Mr. Martinez Santana's immigration proceedings were ongoing when he filed this habeas petition *pro se* in this Court in July 2016. The petition requests that this Court either order a bond hearing or order that he be released from immigration detention.

The government filed a response to the habeas petition on September 5, 2016. In that response, the government asserts that Mr. Martinez Santana's order of removal is administratively final such that he should be considered in post-order removal immigration detention. Furthermore, the government argues that Mr. Martinez Santana's request to be released is premature under *Zadvydas v. Davis*, 533 U.S. 678 (2001). Mr. Martinez Santana did not file a reply.

On November 9, 2016, however, the government submitted a supplemental letter to this Court. That letter states that the habeas petition should now be denied as moot because Mr. Martinez Santana was removed from the United States on September 20, 2016.

III. DISCUSSION

As a general matter, in *Zadvydas*, 533 U.S. 678, the United States Supreme Court held that § 1231(a)(6)¹ "limits an alien's post-removal-period detention to a period reasonably

¹ Section 1231(a)(6) states as follows:

An alien ordered removed who is inadmissible under Section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period,

necessary to bring about that alien's removal from the United States. It does not permit indefinite detention.” 533 U.S. at 689. To state a habeas claim under § 2241, the petitioner must provide facts showing good reason to believe that there is no reasonable likelihood of his actual removal in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701.

Mr. Martinez Santana is no longer in immigration detention; he was removed from the United States on September 20, 2016. The government has documented its assertion that Mr. Martinez Santana was removed by attaching a copy of the ICE-205 form. (See Dkt. No. 6-1 at p.2-3) Thus, Mr. Martinez Santana has received the relief he seeks in his habeas petition: *i.e.*, release from immigration detention. Because he has been removed from the United States, there is no concrete likelihood of his being detained again. Accordingly, his habeas petition is moot, as he “has achieved the result he sought in his habeas petition and his change in circumstances has ‘forestalled any occasion for meaningful relief.’” *Nunes v. Decker*, 480 Fed.Appx. 173, 175 (3d Cir. 2012) (quoting *Artway v. Att’y Gen.*, 81 F.3d 1235, 1246 (3d Cir. 1996)) (other citation omitted); *see also Lindaastuty v. Attorney General of United States*, 186 F. App’x 294, 296 (3d Cir. 2006) (habeas petition challenging immigration detention is moot due to deportation from the United States); *Tjandra v. Ashcroft*, 110 F. App’x 290 (3d Cir. 2004) (finding appeal from denial of habeas petition that challenged immigration custody while petition for review was pending moot in light of petitioner’s removal from the United States); *Pinoth v. Holder*, No. 14-1803, 2015 WL 2015 WL 404489, at *1 (M.D. Pa. Jan. 29, 2015) (denying habeas petition that raised *Zadvydas* claim as moot where petitioner was removed from the United States); *Nguyen v. Holder*, No. 13-0838, 2013 WL 5728671, at *1-2 (M.D. Pa. Oct. 22, 2013) (same).

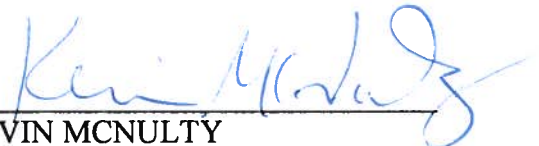
and if released, shall be subject to the terms of supervision in paragraph (3).

8 U.S.C. § 1231(a)(6).

IV. CONCLUSION

For the foregoing reasons, the habeas petition will be denied as moot. An appropriate order will be entered.

DATED: December 9, 2016



KEVIN MCNULTY
United States District Judge